IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.2177 OF 2007

Dilip Anant Meher ...Petitioner

vs.

Mrs.Jayamala Dilip Meher ...Respondent

Mr.H.V.Kode a/w Ms Gunjan Shah i/b Mr.S.A.Sawant for the Petitioner
Mr.Shashank C. Thatte for the Respondent.

CORAM: A.S.OKA,J.
DATE : APRIL 4,2007.

P.C.:

1. Heard the learned Advocate for the Petitioner. The Petitioner is the husband and the Respondent is the wife. In a matrimonial petition filed under the Hindu Marriage Act,1955, the Respondent applied for an interim maintenance under section 24 of the said Act of 1955. The said Application has been allowed by order dated 11th September 2006. By the said order, the learned Judge of the Family Court directed the Petitioner to pay interim maintenance at the rate of Rs.2,000/- per month to the Respondent wife and Rs.1,500/- each to the two minor sons. An Application was made for modification of the said order on the basis of the liberty granted by this court by order dated 20th December 2006. In the said application, a prayer was made for modification of the order granting interim maintenance. By the order impugned dated 6th March 2007, the learned Judge of

the Family Court rejected the said Application.

2. The learned Advocate for the Petitioner submitted that after the Petitioner opted for voluntary retirement from the employment of M/s.Tulip Hospitality Service Ltd., he was forced to take up an employment in a Holiday Resort by the name Green Paradise Resort. According to the case made out in the Application for modification, he was earning daily wages of Rs.100/-. The Advocate for the Petitioner submitted that whatever amount was received by the Petitioner from the earlier employer at the time of opting for voluntary retirement, the same has been spent on the medical treatment of the aged mother of the Petitioner. He submitted that as of today the Petitioner is earning only a sum of Rs.3,000/- per month. He, therefore, submitted that without considering this important factual aspect, the learned Trial Judge has decided his application for modification. He, therefore, submitted that the original order needs to be modified .

3. I have considered the submissions. It appears that the Petitioner was an employee of Hotel Centaur of the Hotel Corporation of India whose employment was transferred to M/s.Tulip Hospitality Services Ltd. Even according to the case made out by the Petitioner, he received a sum of Rs.4,00,000/- and more at the time of opting for voluntary retirement. According to his case, he has paid Rs.45,000/-

for repaying the loan taken by the Respondent-wife from Saraswat Bank. His case is that he had to spend Rs.1,00,000/- for meeting the bills of his credit card. Even according to the case of the Petitioner, after meeting all the liabilities, a sum of Rs.2,21,283/- remained with him. His contention is that the entire amount has been spent by him on the medical treatment of his mother. No particulars of the amounts spent on the medical treatment and the documents relating to the medical treatment are produced by the Petitioner. It must be noted here that the Petitioner has two minor sons who are taking education in English Medium school. The case made out by the Petitioner is that after taking voluntary retirement from the employment of a five Star Hotel, he is employed in some holiday resort and is drawing salary of only Rs.3000/- per month.

4. Considering the all the aforesaid aspects, maintenance amount has been fixed by the learned Judge of the Family Court. Impugned order shows that the learned Judge has considered all the aspects and declined to modify the earlier order.

5. No case is made out for interference in a Writ Petition under Article 227 of Constitution of India. Writ Petition is rejected.

JUDGE